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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,912	04/20/2004	Stephen Russell Falcon	MSI-1946US	5652
22801	7590	09/20/2007		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER NEWAY, SAMUEL G	
			ART UNIT 2626	PAPER NUMBER
			MAIL DATE 09/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/828,912

Applicant(s)

FALCON ET AL.

Examiner

Samuel G. Neway

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 06/07/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is responsive to the Application filed on 20 April 2004.
2. Claims 1 – 20 are pending and are considered below.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 11 – 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11 – 19 are directed to one or more computer readable media, which in accordance with Applicant's specification may be electromagnetic signals (carrier wave, Specification, page 26). This subject matter is not limited to that which falls within a statutory category of invention because it is not limited to a process, a machine, a manufacture, or a composition of matter. Instead, it includes a form of energy. Energy does not fall within a statutory category since it is clearly not a series of steps or acts to constitute a machine, not a tangible physical article or object which is some form of matter to be a product and constitute a manufacture, and not a composition of two or more substances to constitute a composition of matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by Schmid et al (USPGPub 2003/0234818).

Claim 20:

Schmid discloses a system, comprising:

a processing unit; one or more input devices communicatively connected to the processor for generating one or more input signals; a memory module associated with the processor (Fig. 4 and related text), the memory module comprising:

a speech interaction module for receiving spoken commands from a user and generating computer-executable instructions from the spoken commands ("user can manipulate the desktop and its components using voice commands", [0006]); and

a speech interaction cancellation module for receiving an input signal from the one or more input devices and terminating a speech interaction session in response to the input signal ("The "Shutdown" method is utilized to shut down the speech system", [0029]).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 – 2, 7 – 11, and 15 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keely et al (USPN 6,791,536).

Claim 1:

Keely discloses a method, comprising:

receiving a signal indicating that a predetermined switch has been set to a first state ("detecting the stylus being placed down, the computer 201 may begin counting time, e.g., by using a timer, up to at least a threshold amount of time", col. 5, lines 62-65);

monitoring a time parameter indicative of a time the switch remains in the first state ("the computer 201 may begin counting time", col. 5, lines 62-65).

Keely does not explicitly disclose canceling a speech interaction session if the time parameter exceeds a threshold.

However, Keely discloses generating an event representing a secondary switch on a computer pointing device if the time parameter exceeds a threshold ("if the computer 201 further detects that the stylus 204 is not brought up until after the timeout condition (steps 303 and 306), and thus that the stylus 204 has been held down for at least the threshold amount of time, then in response the computer 201 may generate first a Microsoft WINDOWS RightMouseButtonDown event (step 307) (or other event that represents the secondary switch of the pointing device being activated)", col. 6, lines 38-48).

It would have been obvious to one with ordinary skill in the art to execute any standard computer application, including canceling a speech session, if the time a switch remains in a state exceeds a threshold (similar to Keely's system activating the second switch, which is a computer application, in response to the duration in a state).

Claim 2:

Keely discloses the method of claim 1, wherein monitoring a time parameter indicative of a time the switch remains in the first state comprises starting a timer in response to the signal ("detecting the stylus being placed down, the computer 201 may begin counting time, e.g., by using a timer, up to at least a threshold amount of time", col. 5, lines 62-65).

Claim 7:

Keely discloses the method of claim 1, wherein monitoring a time parameter indicative of the time the switch remains in the first state comprises: monitoring a state of the switch; and invoking another event if the state of the switch changes from a first state to a second state before the time parameter exceeds a threshold ("if instead the stylus 204 is brought up prior to the timeout condition (step 303), then in response the computer 201 may generate first a LeftMouseButtonDown event (or other event that represents the primary switch being activated)", col. 6, lines 25-31).

But Keely does not explicitly disclose invoking a new speech interaction session.

It would have been obvious to one with ordinary skill in the art to execute any standard computer application, including invoking a new speech session, if the time a switch remains in a state does not exceed a threshold (similar to Keely's system

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activating the first switch, which is a computer application, in response to the duration in a state).

Claim 8:

Keely discloses the method of claim 1, further comprising resetting a timer if a state of the switch changes from a first state to a second state before the time parameter exceeds a threshold ("the computer 201 may begin counting time", col. 5, lines 62-65).

Claim 9:

Claim 9 is similar in scope and content to claim 7 and is rejected with the same rationale.

Claim 10:

Keely discloses the method of claim 9, further comprising determining whether a device is in a power on state and whether a user is logged into the device (the computer has to be on and unlocked in order to detect the stylus).

Claims 11, 15, 16, 18 and 19:

Claims 11, 15, 16, and 18 are similar in content and scope to claims 1, 7, 8, 9 and 10 respectively and are rejected with the same rationale.

Claim 17:

Keeley discloses the one or more computer-readable media of claim 11, wherein the one or more computer-readable media comprises at least one of an electronic memory module, a magnetic memory module, and an optical memory module (col. 4, lines 10-34).

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9. Claims 3 – 6, and 12 – 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keely et al (USPN 6,791,536) in view of Labiaga et al (USPN 6,185,615).

Claim 3:

Keely discloses the method of claim 2, further comprising: setting a flag indicating that the switch is in the first state ("detecting the stylus being placed down", col. 5, lines 62-65); but it does not explicitly disclose recording a time stamp indicative of a time at which the signal is received.

In a system producing computer transactions logs, Labiaga discloses recording a time stamp as a result of an event (col. 11, lines 23-26).

It would have been obvious to one with ordinary skill in the art at the time of the invention to track event duration in Keely's method using timestamps because they are old and well-known time signatures generated using the system clock of a computer.

Claim 4:

Keely and Labiaga disclose the method of claim 3, wherein the time stamp corresponds to a signal clock time (clock time is inherent in timestamp).

Claim 5:

Keely and Labiaga disclose the method of claim 3, Labiaga further discloses wherein canceling the speech interaction session if the time parameter exceeds a threshold comprises: monitoring a state of the switch; and canceling the speech interaction session if a result of subtracting the time stamp from a current system time exceeds a threshold (Labiaga, col. 11, lines 30-33).

Claim 6:

Keely and Labiaga disclose the method of claim 5, however, they do not explicitly disclose wherein canceling the speech interaction session comprises reversing any operations performed during the speech interaction session.

Official Notice is taken that resetting an application to its default state is old and well known in the computing arts.

It would have been obvious to one with ordinary skill in the art at the time of the invention to reset the speech interaction session in Keely and Labiaga's method in order to avoid entangling the program with previous data and computations.

Claims 12 – 14:

Claims 12 – 14 are similar in content and scope to claims 3, 5, and 6 respectively and are rejected with the same rationale.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Lindholm et al (USPN 6,694,295) discloses a method of activating a speech recognition device by pressing and holding a key on a keyboard
- b. Kikuchi (USPGPub 2004/0183895) discloses an apparatus wherein a function is performed if certain keys are pressed and held for a predetermined amount of time.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Neway whose telephone number is 571-270-1058. The examiner can normally be reached on Monday - Friday 8:30AM - 5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SN


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